

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH D. PHELON,

Plaintiff,

No. CIV S-02-2369 LKK PAN P

vs.

P. STOLZENBACH, et al.,

Defendants.

ORDER

On November 1, 2005, defendants filed a motion for summary judgment pursuant to Federal Rule of Civil Procedure 56. By order filed December 27, 2005, defendants were directed to re-serve their motion on plaintiff and notify the court within ten days; plaintiff's opposition was to be filed thirty days after re-service. On December 28, 2005, defendants filed notice of their compliance with the court's December 27, 2005 order, appending their certificate of service attesting to re-service on plaintiff on December 27, 2005. Thirty days from that date have now passed and plaintiff has not opposed the motion.

Local Rule 78-230(m) provides in part: "Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion" On October 8, 2003, plaintiff was advised of the requirements for filing an opposition to the motion and that failure to oppose such a motion may

1 be deemed a waiver of opposition to the motion.

2 Local Rule 11-110 provides that failure to comply with the Local Rules “may be
3 grounds for imposition of any and all sanctions authorized by statute or Rule or within the
4 inherent power of the Court.” In the order filed October 8, 2003, plaintiff was advised that
5 failure to comply with the Local Rules may result in a recommendation that the action be
6 dismissed.

7 Good cause appearing, IT IS HEREBY ORDERED that, within thirty days of the
8 date of this order, plaintiff shall file an opposition, if any he has, to the motion for summary
9 judgment or a statement of non-opposition. Failure to comply with this order will result in a
10 recommendation that this action be dismissed pursuant Federal Rule of Civil Procedure 41(b).

11 DATED: February 23, 2006.

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14 UNITED STATES MAGISTRATE JUDGE

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